

REMARKS

Reconsideration is requested.

Claims 2, 8, 11 and 21 have been canceled, without prejudice.

Claims 1, 3-7, 9, 10 and 12-20 are pending.

The applicants elect, with traverse, the subject matter of the Examiner's Group II for initial examination.

The applicants note the Examiner's comments regarding the linking or generic claim 1 on page 3 of the Office action dated March 5, 2008 however as the Examiner has not included claim 1 in any of the four allegedly patentably distinct Groups of subject matter, it is unclear how linking claim 1 will be allowed as a condition precedent to withdrawal of the restriction requirement ("Upon the indication of allowability of the linking claim(s), the restriction requirement as to the linked inventions **shall** be withdrawn and any claim(s) depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104."). Clarification is requested in this regard.

Withdrawal of the lack of unity of invention determination (the Examiner refers to the requirement of election as a restriction requirement however the Examiner is urged to appreciate that the present application is a U.S. national phase of a PCT application) is requested. The Examiner's characterization of the technical feature linking the inventions of the Examiner's Groups I-IV as being a nucleic acid encoding a CCS52 protein is not an accurate representation of the disclosed advancement of the claimed invention over the art. Specifically, the applicants submit that the single inventive

concept linking the subject matter of the Examiner's different Groups is the use of CCS52 molecule under the control of a medium strength constitutive promoter to increase plant yield or biomass.

The Examiner is requested to appreciate that page 15 of the present application, for example, describes ten conserved motifs which have been identified in CCS52 proteins. The consensus sequence for each of the motifs is described in SEQ ID NOs: 7-16. The applicants submit that searching with at least 4 of these motifs would enable the identification of CCS52 proteins without an undue burden.

Withdrawal of the election requirement and examination of all of the claimed subject matter are requested.

Return of an initialed copy of the PTO 1449 Form filed August 8, 2006, pursuant to MPEP § 609, is requested.

The Examiner is requested to acknowledge receipt of the priority document and enter a BIB DATASHEET in the PTO IFW indicating same with an indication that the requirements of 35 USC § 119 have been met.

HORVATH ET AL.
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Respectfully submitted,

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